

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

MICHAEL BROCK, JR.
Plaintiff

*** CIVIL ACTION NO:**

VERSUS

*** JUDGE**

**CITY OF SHREVEPORT,
OFFICER T. KOLB AND
OFFICER JD SMITH**
Defendants

*** MAGISTRATE**

COMPLAINT AND DEMAND FOR JURY TRIAL

JURISDICTION

1. This action is brought pursuant to 42 U.S.C. Section 1983, and the Fourth and Fourteenth Amendments of the United States Constitution. Jurisdiction is founded on 28 U.S.C. Sections 1331 and 1343(1)(2)(3)(4) and the aforementioned statutory and Constitutional provisions. The plaintiff invokes this court's supplemental jurisdiction to hear state law claims pursuant to 28 USC 1367.

PARTIES

2. Plaintiff, MICHAEL BROCK, JR., is a citizen of the United States and a resident of and domiciled in Shreveport, Caddo Parish, Louisiana.
3. Made individual defendants herein are
 - (A) **T. KOLB** who was a patrol officer for the CITY OF SHREVEPORT police

department, and at all times herein mentioned, was acting in such capacity as the agent, servant and employee under the color of state law of the defendant CITY OF SHREVEPORT. He is sued in his individual and in his official capacities.

(B) **OFFICER JD SMITH** who was a patrol officer for the CITY OF SHREVEPORT police department, and at all times herein mentioned, was acting in such capacity as the agent, servant and employee under the color of state law of the defendant CITY OF SHREVEPORT. He is sued in his individual and in his official capacities.

4. Made defendant herein is CITY OF SHREVEPORT ("Shreveport") which is a political subdivision of the State of Louisiana. It is sued in its official capacity.

FACTS

5. Your Petitioner was at all times herein a U.S. citizen residing and domiciled in Shreveport, Caddo Parish, Louisiana.
6. On June 11, 2016, your petitioner and his wife were having a discussion. Petitioner's wife called the Shreveport Police to their home.
7. Officer JD SMITH arrived on the scene first. Officer JD SMITH began to question Brock. Brock was standing on his property and could hear Officer JD SMITH clearly. However JD SMITH ordered Plaintiff off of his

own property. Plaintiff refused. Smith pulled Plaintiff off his property and threw him on the ground. He placed MICHAEL BROCK, JR. in one handcuff and was placing the second one on his right hand. He told BROCK that he was not under arrest but under detention.

8. Officer Smith threw BROCK onto ground to handcuff until he finished talking with BROCK's wife.
9. Officer T. KOLB arrived on the scene and came over to BROCK who was secured on the ground. Kolb started punching him forcefully and hard in the head and face. BROCK was handcuffed during the entire time and offered no resistance. JD SMITH did not intervene to stop the beating. Plaintiff was rendered unconscious momentarily.
10. As a result of the beating by KOLB, Shreveport Fire Department EMS was called to the scene to render medical aid to plaintiff BROCK.
11. BROCK was transported to University Health Shreveport for emergency treatment of a broken nose, contusions to the head and hematomas to both eyes. All injuries were caused directly by Officer KOLB.
12. The actions of KOLB were clearly the use of excessive force and a violation of Plaintiff's civil rights.
13. As a result of the use of excessive force, BROCK suffered pain and suffering, past and future mental distress, and past physical pain and

suffering and disfigurement to his face and head.

FIRST CAUSE OF ACTION: USE OF EXCESSIVE FORCE

14. Plaintiff reiterates and realleges paragraphs 1 - 13 as though fully set forth herein.
15. The defendants violated MICHAEL BROCK'S right to be free of use of excessive force in violation of the Fourth Amendment. OFFICER KOLB attacked BROCK while he was restrained on the ground and compliant.
16. Plaintiff contends that the use of force upon him by defendants was clearly excessive as he was not a threat to anyone, was not attempting escape and was not resisting an officer. Brock was compliant at the time of the attack. The use of force was intentional.

SECOND CAUSE OF ACTION: FALSE ARREST

17. Plaintiff reiterates and realleges paragraphs 1 - 16 as though fully set forth herein. Plaintiff brings this cause of action pursuant to 42 USC 1983, et seq. KOLB, JD SMITH and CITY OF SHREVEPORT are Defendants herein.
18. KOLB and JD SMITH arrested Plaintiff for resisting an officer, interfering with an officer and simple assault. Neither KOLB nor SMITH possessed probable cause to arrest Plaintiff. He committed none of the essential elements of proof to support arrest on these charges nor were the officers

in good faith to believe that Plaintiff had committed any such act.

**THIRD CAUSE OF ACTION STATE LAW CLAIMS: FALSE ARREST AND
EXCESSIVE FORCE**

19. Plaintiff reiterates and realleges all of the foregoing paragraphs as though fully set forth herein. KOLB, SMITH and CITY OF SHREVEPORT are made Defendants hereunder.
20. Plaintiff alleges violations of Louisiana Civil Code Article 2315. Officer KOLB and SMITH in the course and scope of their employment with the City of Shreveport, violated plaintiff's rights under Article One Section 5 of the 1974 Louisiana Constitution. The City is liable for the fault of its officers in using excessive force due to a lack of training and supervision. No force was necessary at the time it was used. Also, the defendants are liable under LSA-C.C. art. 2315. The defendant and City of SHREVEPORT are liable in solido unto plaintiff. Plaintiff brings suit for excessive use of force.
21. KOLB's use of force constituted fault because the plaintiff was in custody and compliant; the officers had overwhelming force and power to effect arrest; petitioner was not resisting at the time force was used; the risks and dangers perceived by the officers were minimal at best; and the alleged criminal acts of petitioner were minor. Defendants are liable for

false arrest as well.

22. Plaintiff alleges violations of Louisiana Civil Code Article 2315 for negligence and intentional acts. Officers KOLB and SMITH acted in the course and scope of their employment with the City of Shreveport, committed fault and that fault should be evaluated under La. C.C. art. 2323 and 2324. No officer was injured. The defendants are liable in solido unto plaintiff. Plaintiff brings suit for excessive use of force and false arrest under Louisiana state law. Officers had no probable cause to arrest, seize or detain Plaintiff.
23. Neither KOLB nor SMITH are entitled to qualified immunity under either state law for claims of fault or negligence or intentional acts.

MISCELLANEOUS PROVISIONS

24. Defendants KOLB and SMITH are not entitled to qualified immunity under federal law. Neither officer acted in good faith.
25. Due to the malicious and deliberately indifferent actions of Defendants KOLB and SMITH toward plaintiff's federally protected rights, plaintiff is entitled to an award of punitive damages against them. Plaintiff does not seek punitive damages against the CITY OF SHREVEPORT.
26. Plaintiff demands a trial by jury.

27. Plaintiff suffered mental distress, loss of liberty, invasion of privacy, pain and suffering, disfigurement, loss of enjoyment of life, embarrassment and humiliation as a result of the actions of the defendants.
28. Plaintiffs are entitled to an award of attorney fees and costs under 42 USC 1983 and 1988.

WHEREFORE, PLAINTIFF, MICHAEL BROCK prays that:

1. He be granted a trial by jury.
2. There be judgment herein and against Defendants, OFFICER KOLB, OFFICER JD SMITH and CITY OF SHREVEPORT in solido in a reasonable amount to be set by the Court, plus judicial interest, compensatory damages, consequential damages, and all costs of court, including attorney fees.
3. There be judgement herein against KOLB and JD SMITH for punitive damages.
4. Such other and further relief as may be just.

Respectfully Submitted,

/s/ Nelson Cameron

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